

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ANTHONY WILSON,

Plaintiff,

CIVIL ACTION NO. 06-CV-13111-DT

VS.

DISTRICT JUDGE PAUL D. BORMAN

GENESEE, COUNTY OF,

MAGISTRATE JUDGE MONA K. MAJZOUB

Defendant.

**OPINION AND ORDER DENYING PLAINTIFF'S MOTION TO COMPEL
DISCOVERY (DOCKET NO. 21)**

This matter comes before the Court on Plaintiff's Motion to Compel Discovery filed on October 19, 2006. (Docket no. 21). Defendant has responded to the motion. (Docket no. 23). The motion has been referred to the undersigned for hearing and determination pursuant to 28 U.S.C. § 636(b)(1)(A). The Court finds that the facts and legal arguments are adequately presented in the parties' papers and the decisional process would not be significantly aided by oral argument. Therefore, these motions will be resolved without oral argument pursuant to E.D. MICH. LR 7.1(e)(2).

On September 27, 2006 Plaintiff served upon Defendant his Deposition Upon Written Questions. (Docket no. 23, ex. 1). Defendant objected to the notice on October 10, 2006 and has not answered the questions posed to it. (Docket no. 21 at 2). Plaintiff then brought this motion to compel Defendant to provide responses to the questions which he says are due under Fed. R. Civ. P. 31. (*Id.* at 3). Defendant responds that the notice is not in compliance with Fed. R. Civ. P. 31(a)(3) which requires that the party desiring to take a deposition upon written questions serve them upon every other party with a notice stating the name or descriptive title and address of the officer before whom the deposition is to be taken. (Docket no. 23 at 3). Plaintiff's notice does not

comply with Rule 31 because it does not state the officer before whom the deposition will be taken. (Docket no. 23, ex. 1). The duties of this officer as set out in subdivision (b) of Rule 31 are essential to the process.

IT IS THEREFORE ORDERED that Plaintiff's Motion to Compel Discovery (docket no. 21) is **DENIED**.

Pursuant to Fed. R. Civ. P. 72(a), the parties have a period of ten days from the date of this Order within which to file any written appeal to the District Judge as may be permissible under 28 U.S.C. 636(b)(1).

Dated: November 17, 2006

s/ Mona K. Majzoub
MONA K. MAJZOUB
UNITED STATES MAGISTRATE JUDGE

PROOF OF SERVICE

I hereby certify that a copy of this Order was served upon Anthony Wilson and Counsel of Record on this date.

Dated: November 17, 2006

s/ Lisa C. Bartlett
Courtroom Deputy